

THE SUMNER TRUST DEED

Says He Can Revoke It at His Own Pleasure.

Are the attorneys so actively engaged in the trial of the Sumner case, really anxious that it should be brought to an end, and the old man come into his own? The question is suggested in view of the proceedings so far attendant on the trial of the case. The fight has not been so much between the parties to the suit as among the attorneys who are apparently more anxious to air the good qualities of their own reputations than to protect the interests of their respective clients. The Bishop of Honolulu is not himself a party to the present long drawn out proceedings, though he is the plaintiff in the case. Sumner was put on the stand by the Bishop for but a few minutes and his cross examination, supposedly on those few questions has already occupied several days, with little possibility of an early let-up.

It is said by a local attorney that the trust deed about which all the fight is being made, is revocable at the will of John K. Sumner, though the deed does not so state in express terms. It is in a manner consistent upon a will which has since been destroyed, though there are no other parties to the trust deed than Sumner and the Bishop. When the suit was first begun this appeared also to be the view of Sumner's attorneys. There was a demurrer at that time on behalf of Sumner and R. W. Davis in which it was alleged that the trust deed was voluntary and revocable at the pleasure of Sumner, and furthermore no request had ever been made by the Bishop to Sumner to be relieved of the trust. This demurrer was filed by Magoon & Peters on November 17th for both Sumner and Wylie Davis. The demurrer has never been argued, though it is admitted that a decision on the questions thus raised would settle the case one way or the other without recourse to lengthy court proceedings. Why this has never been done is not apparent, though the court records show that no disposition was made of this demurrer before the case went to trial on its merits.

The whole case centers around the validity of the trust deed which Sumner claims he has revoked. To have the trust deed declared invalid would shut the Ellises out of their inheritance, though Sumner says that he settled whatever claim they might have had by the payment of \$10,000 apiece. The will which is mentioned in the trust deed was cancelled by Magoon and later burned by Sumner, according to his testimony. No copy of the document is now in existence, though an effort will be made to introduce the contents. The will it is said left the Sumner property on the other side of the island to Mrs. Maria S. Davis and Wylie Davis. All the remainder was to be divided into four equal parts. Of this one-fourth was to go to the Catholic church and the remainder was to be divided into three equal parts for Willie Ellis, Victoria Buffandeau and John S. Ellis.

The trust deed contains no reference to the Ellises or the Davises. It does refer however to the will of the same date, September 17th, 1898, which makes the above distribution of the estate. Only the Honolulu property of Sumner is in trust, his valuable estate in Tahiti still being in his own hands. The following is a copy of the trust deed:

"This indenture made this 17th day of September, A. D. 1898 between John K. Sumner, resident of Tahiti, at present temporarily in Honolulu, in the Island of Oahu of the Republic of Hawaii, of the first part, and the Right Reverend Gulistan F. Robert, Vicar Apostolic and Bishop of Honolulu, of said Honolulu, (hereinafter named the Trustee) of the second part. Whereas the party of the first part desiring that his property and interests in the Hawaiian Islands shall be in charge of some competent and disinterested person, and the party of the second part has kindly agreed to accept the trust and confidence in him hereinafter expressed.

"Now this indenture witnesseth: That in consideration of the premises and in order to effectuate such desire and agreement, the party of the first part doth hereby give, grant and convey to the party of the second part, all and singular, the lands, tenements and hereditaments situated within the Hawaiian Islands of him, the party of the first part, or to which he, the party of the first part, is or may be in any manner entitled.

"To have and to hold the same together with all the rights, privileges and appurtenances thereto belonging or in anywise appertaining unto him, the party of the second part, and his successors in office, upon trust, however for the following uses and purposes, that is to say:

"To collect all the rents and profits thereof and to pay thereout all taxes and other expenses incurred in respect of managing or attending the same together with any expenses incurred by the party of the second part, for legal advice or services concerning the same or the management thereof, and to pay the balance thereof from time to time as received by the party of the second part during his lifetime and at his death to grant and convey said property and pay such unapplied income to such uses and purposes and to such persons as the party of the first part shall by his last will and testament made and executed on the 17th day of September, A. D. 1898, appoint, and in default of such appointment, to such persons as shall by the laws of Hawaii be entitled in case of persons dying intestate. And in further trust and with power

herby expressly granted to the Trustee to make such leases and agreements of lease of the said property or any part or parcel thereof, and upon such terms and conditions and for such rentals as the Trustee shall think proper, and to collect and give receipts for the rentals and to collect all moneys now or hereafter due, payable and coming to the party of the first part, within the Hawaiian Islands and to apply the same as above directed in respect of the income of said property. And also, in trust, and with power hereby expressly granted to the Trustee to adjust, compromise and settle all claims of every description now or hereafter made against the party of the first part, in such manner as the Trustee shall think fit, and to bring such actions and proceedings in law or equity in respect of such property or any part thereof, or of any other rights, or claims of the party of the first part, and to conduct the same to final judgment and execution or adjust, compromise and settle the same as the Trustee shall think fit. And in all respects to conduct and manage the said property and the matters hereinabove mentioned as fully and effectually to all intents and purposes as the party of the first part could do. And hereby expressly exempting the Trustee and his successors from any personal liability for any loss resulting to the party of the first part, or others concerned with him by reason of any unintended or accidental act or omission of the Trustee or his successors. And the Trustee hereby accepts the trusts hereinabove expressed and covenants with the party of the first part to execute and perform the same in absolutely good faith, and upon the termination of his official duty in the Hawaiian Islands to transfer said property and money then remaining in his hands and unapplied to the purposes of this trust to his successors or to the persons entitled thereto as designated in said will, or failing such to those entitled thereto by law.

"In witness whereof, the said John K. Sumner and the said Right Reverend Gulistan F. Robert have hereunto and to another instrument of the same date and like tenor, set their hands and seals the day and year first above written.

"JOHN K. SUMNER. (Seal.)
"GULISTAN F. ROBERT (Seal.)"

Sumner's signature is attested by Nellie M. Lowrey, and the Bishop's by W. L. Peterson. The instrument was recorded September 30, 1898.

SAILOR STEPPED OFF THE WHARF

Had it not been for a prompt rescue on the part of watchman "Jack" and two men from the custom house, Captain McGrew and Night Inspector Wirud, a drunken sailor from the Helene would have been drowned late Wednesday night.

The sailor had returned from town after celebrating New Year's eve, and in trying to reach his vessel stepped off the Irmgard wharf and fell into the water. "Jack" heard the splash and shouted "man overboard." The trio then rushed to the rescue. McGrew flashed his searchlight on the water. This found the drowning man, who was quite close to the wall of the wharf. Wirud took off his overcoat and, climbing down on the wharf, threw its end toward the drowning sailor with the injunction to "grab hold." The sailor did this, and several people assisted in pulling him to the wharf.

The water did not sober him, and it required half a dozen persons to push him up the Helene's gang plank and into his bunk.

Japanese residents generally celebrated New Year's day by making of it a holiday. Sun-disk flags fluttered all over the city and the subjects of the Mikado spent the day in making calls, attending the Japanese theater in the evening and participating in various amusements. Their New Year really falls on January 2, but all decided to unite with the white residents in celebrating on the regular New Year day.

Crying for Help

Lots of it in Honolulu But Daily Growing Less.

Backache is one of the first indications of kidney trouble.

It is the kidneys' first cry for help. Heed it.

Doan's Backache Kidney Pills are what is wanted.

Are just what overworked kidneys need.

They strengthen and invigorate the kidney; help them to do their work; never fail to cure any case of kidney disease.

Read the proof from a Honolulu citizen.

Mr. Charles Conney, of Cyclometer street, this city, one of the many persons who have tried Doan's Backache Kidney Pills with great advantage, relates his experience thus: "I have been a hack driver for a number of years past and this is an occupation in which, through exposure to weather and much jumping up and down from the vehicle, one is particularly liable to kidney complaint. I suffered myself from a lame back for a long while, and in my anxiety to get rid of it tried several things which did not reach the root of my trouble. An advertisement acquainted me with what grand work Doan's Backache Kidney Pills were doing, and I got some of them at the Hollister Drug Co's store. I used them and with very much profit, for they relieved my back wonderfully."

Doan's Backache Kidney Pills are for sale by all dealers or sent by mail on receipt of price, 50 cents per box, by the Hollister Drug Co., Honolulu, wholesale agents for the Hawaiian Islands.

Remember the name Doan's and take no other.

THE TRAMWAY IS UNDER CONTROL OF RAPID TRANSIT

The Rapid Transit-Tramways Company street railway deal has progressed so far that the management of the Tramways Company was yesterday formally turned over to the Rapid Transit Company. The business of the Tramways Company will be carried on until the confirmation or failure of the negotiations now under way by the Rapid Transit Company.

The first and most radical move that will be made by the Rapid Transit Company is the taking off of the mule cars on King street and on the Waikiki Road as far as the present terminus of the Rapid Transit line in the McCully tract.

Until the Rapid Transit line is extended all the way to Kapiolani Park, the Tramways Company cars will run on the Waikiki Road from the present terminus of the Rapid Transit towards Kapiolani Park, the Tramways Company car meeting each of the Rapid Transit cars at the terminus.

This schedule goes into effect this morning, the tram cars ceasing their runs at midnight last night, so that in all probability the public has seen the last of the mule cars on King street.

Mr. Pain will still remain manager of the mule car lines until the final ratification of the negotiations, subject to the control of the Rapid Transit Company.

As the two systems will technically be separate, fares as usual will be collected on both the Rapid Transit and Tramways cars.

It is a curious coincidence that the Tramways system should have been inaugurated on the King street line on January 1, 1889, and cease on the same day in 1903. The Advertiser of January 2, 1889, has the following to say of the inauguration of the mule car system:

"The tram cars did a heavy traffic, the opening day, New Year's, on King street where they ran. It was a very unsatisfactory service for the public, however, as hundreds waited at the corners for belated cars only to be disappointed, the fullest complement allowed being already on board. The company should have had double the cars on the line that it had. Otherwise, the traffic seemed to be conducted without much friction. It will be well if permanent effect be given the prevention of over-crowding—a grievous nuisance elsewhere—although the virtue in this case is owing partly to the interference of the police. The remedy, however, must not be effected at the sacrifice of public accommodation, but by the company being obliged to supply a sufficiency of cars for every emergency."

In the initial time-table of the company published at the same time, headed "Opening of the King Street Line" it read: "To insure punctuality, it is requested that passengers will, as far as possible, join and leave the cars at the corners of the blocks."

"They are also respectfully cautioned against attempting to enter or alight from the cars whilst in motion; to see that the ticket handed them in return for their fare is actually torn from the driver's strip; to retain that ticket during the journey, and to destroy it on leaving the car."

The original of the message was given to Secretary Cooper and it shows that it was sent through at 8:48 o'clock. There was a short wait when it was finished, and then the waving lines told of the receipt at the residence of the President and the answer sent by the operator told as well that, tired with the fatigue of the New Year's reception, the President had retired. The message, it was said, would be submitted to him as soon as he arose, so that those who are conversant with his early rising habit conjectured that the answer would be along by 1 o'clock. Secretary Cooper's message to President Mackay, with others to the Governor of California and Vice-President Ward followed.

The interim was given over to the sending of the account of the laying of the cable as recounted by Associated Press representative on the expedition, E. D. Moore, and the many congratulatory messages which were forwarded to newspapers and friends of the officials of the company throughout the United States. There was nothing from the mainland at all. There will be nothing until the message of President Roosevelt for everything must be side-tracked for that, and there is no intention on the part of those who have the management of the cable to permit delay in this message transmission.

The scene in the office during the late hours of the night was a memorable one, for the men who have been interested in every form of cable endeavor were there. Manager Dickenson looked over the messages as a whole. Superintendent Gaines took part of the work of sending, Manager Martin of the Okonite Company, which put down the underground cable, took a trick at the sending key that he might have the satisfaction of a part in the first working of the wire. Operators Harwood and Macmillan were on hand and hard at work, and every one who has taken part in the inauguration stood the watch until the hour of midnight gave no hope for more.

He said that there had been spent on that canal \$266,000,000 and there was nothing to show for it except two-fifths of a ditch dug there, which was filled up to a large extent.

The bill was referred, as requested, and consideration resumed on the military bill.

An amendment offered by Mr. Foraker was agreed to, striking out as much of Section 34 as related to drills, inspection and instruction of men enrolled in the reserve force.

At 2 o'clock the military bill was displaced by the Omnibus statehood bill, but before discussion was resumed the Senate passed a bill relating to ceded lands in the Fort Hall Indian Reservation in Idaho and a resolution directing the Secretary of the Interior to transmit to the Senate the report of Dr. Jackson upon the introduction of domestic reindeer in Alaska.

When consideration of the statehood bill was resumed Mr. Beveridge suggested the advisability of discontinuing the debate upon the bill upon the conclusion of Mr. Dillingham's remarks until the Senate meets on January 5. The arrangement was agreed to, but Mr. Quay required it to be understood that Mr. Dillingham should complete his remarks and print them in the Record this week, and that on January 5 some other Senator will be ready to address the Senate on the bill.

Mr. Dillingham then resumed his speech in opposition to the omnibus bill.

Underwood hit safely past third to open the game, got to second on Babbitt's sacrifice, scoring on Steere's liner which was too high for third, after a pretty steal. Steere got to second but died there. With two out MacCallino threw Lishman's grounder to the fence over Soper's head and the runner scored easily, no one else crossing the plate.

The second inning netted nothing though MacCallino got to third, the Customs failing to send a man to first. MacCallino furnished the feature of the third with a splendid stop and assist in a double play. Tucker got the first hit clearly over second.

With one out in the fourth A. MacCallino was safe on Kiwa's error and when Cooke bunted prettily Anthony calmly threw to the fence and MacCallino tallied. Bowers' double scored Kiwa who was safe on A. MacCallino's error. Honan hit and Bowers scored, a double play ending the inning.

The fifth found Waterhouse safe on a good hit and second on a passed ball. Two sacrifices sent him home but Umpire Thompson seemed to think there was something forced about it and called Waterhouse out at the plate, a decision without precedent since the good old days of rounders, but loyally everybody accepted the decision. MacCallino put King safe at first and Lishman's single with a little rattle made it look like trouble until Kiwa died at first.

It looked like something for Punahou in the sixth when Soper got four balls and Steere won an error, but Soper ran on a phantom chance and two were out in a row. Bowers was given two by Cunha's misjudgment of a liner, Honan was out at first and Soper gave A. MacCallino a chance for a double which he missed and the inning was saved by a strike out.

The lucky seventh started with a base on balls by J. MacCallino and a hit by Cunha, both scored on Waterhouse's hit and the play. Underwood scored Waterhouse with a single and he with Babbitt who had singled scored on Steere's bungle over second, he tallying on Cooke's sacrifice, ending the scoring with six runs to the good. Wilson for Wilbur faced Williamson who succeeded Babbitt and got down as a passed strike being doubled off second on Tucker's fly. Lishman got four bad ones and Kiwa hit, Anthony's long fly scoring the former and a wild pitch clearing the bases. The ninth was unprofitable all around. The score:

would be along by 1 o'clock. Secretary Cooper's message to President Mackay, with others to the Governor of California and Vice-President Ward followed.

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Score by innings—
1 2 3 4 5 6 7 8 9
Punahou 1 0 0 1 0 0 0 0 0
U. S. Customs 1 0 2 0 0 0 2 0 5
Summary:
Earned runs—Punahou 2, Customs 2.
Two base hits—Bowers and Steere.
Double plays—Steere to Soper to MacCallino, Cunha to Steere; MacCallino to King.
Strike out—By Babbitt 2, by Williamson 3, by Honan 2.
Passed balls—Underwood 2, Anthony 1.
Wild pitches—Williamson 1.
Umpire—Gibson and Thompson.
Scored—H. Carter.

PUNAHOU WIN FIRST

Defeat Customs In a Hard Game.

There were times when the baseball game between the Punahou and the Customs at Punahou yesterday was as exciting as any exhibition of the game as one has ever seen in the city. The game was a hard one, with many moments when the fan who was out to have a trial with his lungs, was made right sore by the performances of the eighteen in uniform.

The game drew several hundred people to the campus and right heartily did they seem to enjoy the exhibition. The game was played by the same old Punahou team, with the exception of Underwood, catcher, who takes the place of Hemenway, the change being on account of the business calls upon the time of the latter. The Customs came in with several alterations in the make up of the team, principally owing to the new battery. Honan, who won the championship for the Makiki, was in the box, and Anthony, a new man, behind the bat. MacCallino, another new man, was at second and Wilbur of the Artillery was with Wilson in right field. Taken as a whole the play was fair and for the time of the season spoke well for the condition of the men. The game was won in the seventh by some pretty hits and Honan was not looking well for a moment. The pitching department of the winners was in fair shape, the oldtimers showing in fine fettle. Altogether the promise given was of highclass play during the season, of which the game yesterday may be taken as hardly a curtain raiser, and of some new faces all along the line.

Underwood hit safely past third to open the game, got to second on Babbitt's sacrifice, scoring on Steere's liner which was too high for third, after a pretty steal. Steere got to second but died there. With two out MacCallino threw Lishman's grounder to the fence over Soper's head and the runner scored easily, no one else crossing the plate.

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U. S. CUSTOMS.					
	T. R.	R. H.	P. O.	A.	E.
Tucker, lf.	5	0	1	0	0
King, lf.	5	0	0	11	0
Lishman, ss.	3	2	1	1	7
Kiwa, 3b.	4	2	1	1	1
Anthony, c.	3	0	0	10	0
Bowers, cf.	4	1	1	1	0
Honan, p.	3	0	1	0	3
Macfarlane, 2b.	4	0	0	2	2
Wilbur, rf.	2	0	0	0	0
Wilson, rf.	2	0	0	0	0

	35	5	5	27	14	5
PUNAHOU.						
	T.B.	R.	B.H.	P.O.	A.	E.
Underwood, c.	4	2	2	3	3	0
Babbitt, p.	2	1	0	1	4	0
Williamson, p.	1	0	0	0	0	0
Soper, 1b.	4	0	0	15	0	0
Steere, 2b.	5	1	3	6	3	0
A. MacCallino, 3b.	5	1	0	0	5	3
Cooke, ss.	3	0	0	0	1	1
J. MacCallino, If.	2	1	0	0	1	1
Cunha, cf.	4	1	2	2	1	1
Waterhouse, rf.	3	1	1	0	0	0
	35	8	8	27	18	6
Score by innings—						

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1 2 3 4 5 6 7 8 9
Punahou 1 0 0 1 0 0 0 0 0
U. S. Customs 1 0 2 0 0 0 2 0 5
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Passed balls—Underwood 2, Anthony 1.
Wild pitches—Williamson 1.
Umpire—Gibson and Thompson.
Scored—H. Carter.

INSURANCE
Theo. H. Davies & Co.
(Limited.)
AGENTS FOR FIRE, LIFE AND MARINE INSURANCE.

Northern Assurance Company,
OF LONDON, FOR FIRE AND LIFE. Established 1834.
Accumulated Funds £2,978,000.

British and Foreign Marine Ins. Co
OF LIVERPOOL, FOR MARINE.
Capital £1,000,000

Reduction of Rates.
Immediate Payment of Claims.

THEO. H. DAVIES & CO., LTD.
AGENTS.

IMPERIAL LIME
99 15-100 Per Cent Pure.

The very best Lime and in the best containers.

In Lots to Suit.
Low Prices.

CALIFORNIA FEED Co.
AGENTS.

Olaa Sugar Co., Ltd.
ASSESSMENTS.

The twenty-fourth and final assessment of 10% or two dollars (\$2.00) per share has been called to be due and payable December 20, 1902.

Interest will be charged on assessments unpaid ten days after the same are due at the rate of one per cent (1%) per month from the date upon which such assessments are due.

The above assessments will be payable at the office of The B. F. Dillingham Co., Ltd., Sitongwaid building. (Signed) ELMER E. PAXTON, Treasurer Olaa Sugar Co. May 12, 1903. 2383

Clarke's Blood Mixture

THE WORLD-FAMED BLOOD PURIFIER AND RESTORE. IS WARRANTED TO CLEAR THE BLOOD from all impurities from whatever cause arising. For Scrofula, Scurvy, Eczema, Skin and Blood Diseases, Black